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IN THE UNITED STATES DISTRICT COOUR TO UP FRY, CLERK

FOR THE DISTRICT OF MONTANALY CLERK

BILLINGS DIVISION

UNITED STATES OF AMERICA,)	Cause No. CR-07-85-BLG-JDS
Plaintiff,)	
v.)	ORDER
SHANTAE HARRIS,)	
Defendant.)))	

Presently before the Court is the Government's Motion to Dismiss without prejudice. In response, the Defendant objects and contends that the Government has failed to meet the requirements of F.R.Crim.P. 48(a). Specifically, Defendant argues that the Government has failed to state the grounds for its motion to dismiss as required by the Rule. Subsequently, the Government has filed a Memorandum in Support of Motion to Dismiss (*Doc. 22*).

In said Memorandum, the Government states that the grounds for seeking dismissal without prejudice is that after "additional investigation and the testimony of other cooperating witnesses/defendants, it has become apparent that defendant Shantae Harris' criminal activity far exceeds the current charges in this indictment."

Generally, the government may, with leave of the court, dismiss an indictment, information, or complaint. Fed.R.Crim.P. 48(a). The primary purpose of the rule is to protect a criminal defendant from prosecutorial harassment. Rinaldi v. United States, 434 U.S. 22, 31 (1977). Courts

have recognized that a prosecutor can abuse his powers and harass a defendant by repetitively filing,

dismissing and recharging him with a crime. Id., 434 U.S. at 29 n. The rule is also intended to allow

courts to consider public interest, fair administration of criminal justice and preservation of judicial

integrity when evaluating motions to dismiss United States v. Gonsalves, 781 F.2d 1319, 1320 (9th

Cir.1986).

Having considered the Government's grounds for dismissal, this Court concludes that the

grounds articulated by the government establish that the dismissal is not clearly contrary to manifest

public interest. U.S. v. Gonzalez, 58 F.3d 459, 463 (9th Cir. 1995). Further given the grounds for

dismissal, this Court cannot conclude that the government's conduct reflects an abuse of prosecutorial

authority or harassment of the defendant.

For the foregoing reasons, IT IS HEREBY ORDERED that the Government's Motion to

Dismiss (Doc. #18) is GRANTED.

IT IS FURTHER ORDERED that the Indictment in this case be DISMISSED WITHOUT

PREJUDICE.

The Clerk of Court shall notify the parties forthwith of the making of this Order.

DATED this 16th day of October, 2007.

lack D. Shanstrom

Senior U.S. District Court Judge

Jack D. Shanstrom